

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

DON HIGH

v.

CITY OF WYLIE, TEXAS and MINDY
MANSON

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§
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Civil Action No. 4:18-CV-364
Judge Mazzant

VERDICT FORM

We, the Jury, find as follows:

Question No. 1

Has Plaintiff Don High proved that he was an employee of Defendant the City of Wylie?

Answer "Yes" or "No."

no

If you answered "Yes" to Question No. 1, proceed to Question No. 2.

If you answered "No" to Question No. 1, proceed to the signature line.

DISCRIMINATION BASED ON RACE UNDER TITLE VII

Question No. 2

Has Plaintiff Don High proved that Defendant the City of Wylie's decision to reduce the number of hours worked by Plaintiff and/or revoke his resolution was an "adverse employment action" pursuant to his Title VII race discrimination claim?

Answer "Yes" or "No."

If you answered "Yes" to Question No. 2, proceed to Question No. 3.

If you answered "No" to Question No. 2, proceed to Question No. 8.

Question No. 3

Has Plaintiff Don High proved that he would not have had his number of work hours reduced and/or his resolution revoked in the absence of—in other words, but for his race?

Answer "Yes" or "No."

Proceed to Question No. 4.

Question No. 4

Has Plaintiff Don High proved that Plaintiff's coworker Lisa Davis exhibited discriminatory animus towards Plaintiff based on Plaintiff's race?

Answer "Yes" or "No."

If you answered "Yes" to Question No. 4, proceed to Question No. 5.

If you answered "No" to Question No. 4, but "Yes" to Question No. 3, proceed to Question No. 7.

If you answered "No" to Question No. 3 and "No" to Question to No. 4, proceed to Question No. 8.

Question No. 5

Has Plaintiff proved that, due to this discriminatory animus, Plaintiff's coworker Lisa Davis exerted influence or leverage over decision-makers with the intent of the decision-makers reducing the number of hours worked by Plaintiff and/or revoking his resolution?

Answer "Yes" or "No."

If you answered "Yes" to Question No. 5, proceed to Question No. 6.

If you answered "No" to Question No. 5, but "Yes" to Question No. 3, proceed to Question No. 7.

If you answered "No" to Question No. 3 and "No" to Question to No. 5, proceed to Question No. 8.

Question No. 6

Has Plaintiff proved that, but for Lisa Davis's influence, the decision-makers would not have reduced the number of hours worked by Plaintiff and/or revoked his resolution?

Answer "Yes" or "No."

If you answered "Yes" to Question No. 6, proceed to Question No. 7.

If you answered "No" to Question No. 6, but "Yes" to Question No. 3, proceed to Question No. 7.

If you answered "No" to Question No. 3 and "No" to Question to No. 6, proceed to Question No. 8.

Question No. 7

What sum of money, if paid now in cash, would fairly and reasonably compensate Plaintiff Don High for the damages, if any, you have found Defendant the City of Wylie caused Plaintiff Don High?

Answer in dollars and cents for the following items and none other:

1. Pain and suffering, inconvenience, mental anguish, and loss of enjoyment of life

\$ _____

2. Future pain and suffering, inconvenience, mental anguish, and loss of enjoyment of life.

\$ _____

3. Wages and benefits from February 1, 2017 to the date of verdict.

\$ _____

Proceed to Question No. 8.

RETALIATION BASED ON TITLE VII

Question No. 8

Has Plaintiff Don High proved that Defendant the City of Wylie's decision to reduce the number of hours worked by Plaintiff and/or revoke his resolution was an "adverse employment action" pursuant to his Title VII retaliation claim?

Answer "Yes" or "No."

If you answered "Yes" to Question No. 8, proceed to Question No. 9.

If you answered "No" to Question No. 8, proceed to Question No. 14.

Question No. 9

Do you find that Plaintiff Don High would not have had an adverse employment action taken against him but for his filing an Internal Complaint/Grievance or Charge of Discrimination based on his race?

Answer "Yes" or "No."

Proceed to Question No. 10.

Question No. 10

Has Plaintiff Don High proved that Plaintiff's coworker Lisa Davis exhibited retaliatory animus towards Plaintiff based on race?

Answer "Yes" or "No."

If you answered "Yes" to Question No. 10, proceed to Question No. 11.

If you answered "No" to Question No. 10, but "Yes" to Question No. 9, proceed to Question No. 13.

If you answered "No" to Question No. 9 and "No" to Question to No. 10 proceed to Question No. 14.

Question No. 11

Has Plaintiff proved that, due to this retaliatory animus, Plaintiff's coworker Lisa Davis exerted influence or leverage over the decision-maker with the intent of decision-makers reducing the number of hours worked by Plaintiff and/or revoking his resolution?

Answer "Yes" or "No."

If you answered "Yes" to Question No. 11, proceed to Question No. 12.

If you answered "No" to Question No. 11, but "Yes" to Question No. 9, proceed to Question No. 13.

If you answered "No" to Question No. 9 and "No" to Question to No. 11, proceed to Question No. 14.

Question No. 12

Has Plaintiff proved that, but for Lisa Davis's influence, the decision-makers would not have reduced the number of hours worked by Plaintiff and/or revoked his resolution?

Answer "Yes" or "No."

If you answered "Yes" to Question No. 12, proceed to Question No. 13.

If you answered "No" to Question No. 12, but "Yes" to Question No. 9, proceed to Question No. 13.

If you answered "No" to Question No. 9 and "No" to Question to No. 12, proceed to Question No. 14.

Question No. 13

What sum of money, if paid now in cash, would fairly and reasonably compensate Plaintiff Don High for the damages, if any, you have found Defendant the City of Wylie caused Plaintiff Don High?

Answer in dollars and cents for the following items and none other:

1. Pain and suffering, inconvenience, mental anguish, and loss of enjoyment of life

\$ _____

2. Future pain and suffering, inconvenience, mental anguish, and loss of enjoyment of life.

\$ _____

3. Wages and benefits from February 1, 2017 to the date of verdict.

\$ _____

Proceed to Question No. 14.

ADEA DISCRIMINATION BASED ON AGE

Question No. 14

Has Plaintiff Don High proved that Defendant the City of Wylie's decision to reduce the number of hours worked by Plaintiff and/or revoke his resolution was a "tangible employment action" pursuant to his ADEA age discrimination claim?

Answer "Yes" or "No."

If you answered "Yes" to Question No. 14, proceed to Question No. 15.

If you answered "No" to Question No. 14, proceed to Question No. 21.

Question No. 15

Has Plaintiff Don High proved that, but for his age, Defendant the City of Wylie would not have reduced the number of hours worked by Plaintiff and/or revoked his resolution?

Answer "Yes" or "No."

Proceed to Question No. 16.

Question No. 16

Has Plaintiff Don High proved that Plaintiff's coworker Lisa Davis exhibited discriminatory animus towards Plaintiff based on Plaintiff's age?

Answer "Yes" or "No."

If you answered “Yes” to Question No. 16, proceed to Question No. 17.

If you answered “No” to Question No. 16, but “Yes” to Question No. 15, proceed to Question No. 19.

If you answered “No” to Question No. 15 and “No” to Question to No. 16, proceed to Question No. 21.

Question No. 17

Has Plaintiff proved that, due to this discriminatory animus, Plaintiff’s coworker Lisa Davis exerted influence or leverage over the decision-makers with the intent of decision-makers reducing the number of hours worked by Plaintiff and/or revoking his resolution?

Answer “Yes” or “No.”

If you answered “Yes” to Question No. 17, proceed to Question No. 18.

If you answered “No” to Question No. 17, but “Yes” to Question No. 15, proceed to Question No. 19.

If you answered “No” to Question No. 15 and “No” to Question to No. 17, proceed to Question No. 21.

Question No. 18

Has Plaintiff proved that, but for Lisa Davis’s influence, the decision-makers would not have reduced the number of hours worked by Plaintiff and/or revoked his resolution?

Answer “Yes” or “No.”

If you answered “Yes” to Question No. 18, proceed to Question No. 19.

If you answered “No” to Question No. 18, but “Yes” to Question No. 15, proceed to Question No. 19.

If you answered “No” to Question No. 15 and “No” to Question to No. 18, proceed to Question No. 21.

Question No. 19

What sum of money, if paid now in cash, would fairly and reasonably compensate Plaintiff Don High for the damages, if any, you have found Defendant the City of Wylie’s wrongful conduct, if any, caused Plaintiff Don High?

Answer in dollars and cents for the following items, and no others:

Past wages and benefits from February 1, 2017 to the date of verdict

\$ _____

Proceed to Question No. 20.

Question No. 20

Was Defendant’s alleged adverse employment action willful?

Answer “Yes” or “No.”

Proceed to Question No. 21.

FIRST AMENDMENT RETALIATION

Question No. 21

Has Plaintiff Don High proved that Defendant Mindy Manson's decision to reduce the number of hours worked by Plaintiff and/or revoke his resolution was an "adverse employment action" pursuant to his First Amendment Retaliation claim?

Answer "Yes" or "No."

If you answered "Yes" to Question No. 21, proceed to Question No. 22.

If you answered "No" to Question No. 21, proceed to the signature line.

Question No. 22

Has Plaintiff Don High shown that his speech was a substantial or motivating factor in Mindy Manson's decision to reduce the number of hours worked by Plaintiff and/or revoke his resolution?

Answer "Yes" or "No."

If you answered "Yes" to Question No. 22, proceed to Question No. 23.

If you answered "No" to Question No. 22, proceed to the signature line.

Question No. 23

Has Defendant Mindy Manson shown that she would have reduced the number of hours worked by Plaintiff and/or revoked his resolution for other reasons even if he had not spoken out about discrimination?

Answer "Yes" or "No."

If you answered "Yes" to Question No. 23, proceed to Question No. 24.

If you answered "No" to Question No. 23, proceed to the signature line.

Question No. 24

Do you find that Defendant Mindy Manson's actions were objectively reasonable under the circumstances and clearly established law in relation to the treatment of Plaintiff Don High?

Answer "Yes" or "No."

If you answered "Yes" to Question No. 24, proceed to the signature line.

If you answered "No" to Question No. 24, proceed to Question No. 25.

Question No. 25

What sum of money, if paid now in cash, would fairly and reasonably compensate Plaintiff Don High for the damages, if any, you have found Defendant the city of Wylie caused him?

Answer in dollars and cents for the following items and none other.

Past wages and benefits:

\$ _____

Emotional pain and suffering, inconvenience, mental anguish, and loss of enjoyment of
life:

\$ _____

Proceed to the signature line.

Date: 1/30/20

Presiding Juror: _____